

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

ILEANA GUZMAN-HERNANDEZ,

Plaintiff,

vs.

**ASHFORD PRESBYTERIAN COMMUNITY
HOSPITAL INC. d/b/a ASFRORD
PRESBYTERIAN COMMUNITY HOSPITAL;
INSURANCE COMPANY A; INSURANCE
COMPANY B; CORPORATION X;
CORPORATION Y; PROFESSIONAL
PARTERSHIP I; PROFESSIONAL
PARTNERSHIP II; JOHN DOE; and JANE
DOE.**

Defendants.

Case No. _____ (____)

Re: Torts and Damages

Request for Trial by J ury

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW Plaintiff, **Ileana Gómez-Hernández**, through her undersigned attorneys and very respectfully alleges and prays as follows:

I. JURISDICTION AND VENUE

1. The This Honorable Court has jurisdiction to entertain this civil action pursuant to 28U.S.C. § 1332, since the Plaintiff is a citizen of the State of Texas and all of the Codefendants are citizens of the Commonwealth of Puerto Rico and/or other states of the United States of America, and the amount in controversy exceeds \$75,000.00.

2. Venue is proper in the instant case as all claims arise from events that occurred within the jurisdiction of this Court and in the Commonwealth of Puerto Rico.

II. DEMAND FOR JURY TRIAL

3. Plaintiff demands a jury trial on all causes of action pleaded in this Complaint.

III. PARTIES

4. Plaintiff, Ileana Guzmán-Hernández (“Ms. Guzmán-Hernández”) is a natural person, of legal age, and a resident of the State of Texas. Her postal address is: 1021 McKaveptt Drive, Fort Worth, TX 76140.

5. Codefendant Ashford Presbyterian Community Hospital (“Ashford Presbyterian Hospital”) is an entity organized under the laws of the Commonwealth of Puerto Rico.

6. Codefendant Insurance Companies A & B, whose names are unknown to plaintiff, are entities organized under the laws of the Commonwealth of Puerto Rico, with their principal place of operations in the Commonwealth of Puerto Rico. They issued insurance policies which cover the damages and liabilities caused to Ms. Guzmán-Hernández by the Codefendant.

7. Codefendant Corporations X & Y, whose names are unknown to plaintiff, are entities organized under the laws of the Commonwealth of Puerto Rico, with their principal place of operations in the Commonwealth of Puerto Rico. They and their employees/agents engaged and collaborated with the named codefendant to willfully and negligently engage in the actions and/or omission which caused or contributed to the damages claimed herein. One of such companies may be an entity which manages and/or operates the Ashford Presbyterian Community Hospital’s emergency room and/or the CT scan services which were provided to Ms. Guzmán-Hernández.

8. Codefendants Professional Partnership I and II, whose names are unknown to plaintiff, are entities organized under the laws of the Commonwealth of Puerto Rico, with their principal place of operations in the Commonwealth of Puerto Rico. They and their employees/agents engaged and collaborated with the named codefendant to willful and negligent

engage in the actions and/or omission which caused or contributed to the damages claimed herein. One of such PSC may be an entity which manages and/or operates the Ashford Presbyterian Community Hospital emergency room and/or the CT scan services which was provided to Ms. Ileana Guzmán-Hernández.

9. Codefendants John Doe and Jane Doe are natural persons whose names are unknown currently. They engaged and collaborated with the named codefendant to willfully and negligently engage in the actions and/or omission which caused or contributed to the damages claimed herein.

IV. ALLEGATIONS

10. During the late evening hours of November 23, 2020, while in Puerto Rico to conduct a business transaction, Ms. Guzmán-Hernández visited the Ashford Presbyterian Hospital's emergency room to have her left knee checked by medical staff. She had been feeling pain in that knee for around two (2) weeks.

11. Ms. Guzmán-Hernández was 68 years old at the time.

12. The attending doctor noted her condition and ordered a computer topography scan ("CT scan") of her left knee.

13. In lieu of the attending doctor's orders, Ms. Guzmán-Hernández was taken to the Ashford Presbyterian Hospital's CT scan machine room. There a technician named Mr. Orsini (first name unknown) placed her on the CT scanner machine's examination table and mechanically slid half of her body (legs and waist) inside the scanner's cylinder.

14. Mr. Orsini instructed Ms. Guzmán-Hernández that the CT scanner would make noise while it was performing the scan and would stop making noise as soon as the procedure was completed. Mr. Orsini also instructed Ms. Guzmán-Hernández to yell for him when the machine ended the scan.

15. In due time the machine completed the scan procedure and stopped making noise. And, as instructed, Ms. Guzmán-Hernández began calling for Mr. Orsini, but he did arrive. She continued to call him, and time continued to elapse. According to Ms. Guzmán-Hernández half an hour elapsed without him or anyone else arriving.

16. During that period half of her body was still placed inside the scanner's narrow cylinder. She felt claustrophobic and could not breath well because the flat position she was lying in affected her breathing. She suffers from chronic obstructive pulmonary disease ("COPD") and rests with pillows to her back.

17. Despite her calls no one arrived. She continued to call for help and had been inside the scanner's cylinder for half an hour, or close thereto, and was both having trouble breathing and becoming anxious. So, she tried to wiggle and slide upwards in order to get somewhat out of the scanner's cylinder. That would give her a little relief.

18. However, as she tried to slide upwards of fell directly to the ground. She hit the floor with her right shoulder and head. She was in great pain. The incident occurred at about 12:15 am on November 24, 2021.

19. She could barely move due to the pain. She crawled on the floor from the right side of the machine all the way to the left side, where Mr. Orsini had placed a wheelchair. She was completely disoriented but in time and with much effort was able to stand by holding on to the walls. She reach and open the room's door to call for help.

20. Nurses and a doctor properly assisted her, and a search was begun to locate Mr. Orsini, who has left her alone and inside the CT scanner machine for half an hour.

21. When the Ashford Presbyterian Hospital's security located Mr. Orsini, he approached Ms. Guzmán-Hernández and yelled at her. She yelled back.

22. Since she was bruised and hurting a doctor evaluated her. He ordered X-rays of arm, elbow, and shoulder. No fractures were seen, and she was sent home with instructions to see an orthopedist.

23. Since that fall, during the early hours of November 24th, Ms. Guzmán-Hernández has not been the same. She began having intense daily migraine headaches, her balance and concentration were off, and her memory was affected. She could no longer driver her automobile and her personal relationships began to be affected by her mood changes. Those changes came abruptly.

24. Due to the continuous migraine headaches and memory problems, she visited two (2) neurologists in Waco, Texas. They were Kristi Mosley and Padma Srinivasan.

25. On August 5, 2021, a magnetic resonance image (“MRI”) was taken of her brain. The results, dated August 8th, astonished, and worried Ms. Guzmán-Hernández, since Sr. Srinivasan reported the following:

Mild periventricular and subcortical white matter lesions are noted, nonspecific and likely related to sequela of prior migraines/trauma or mild chronic ischemia changes. Focal encephalomalacia is noted along the medial dorsal right frontal lobe and inferior lobe, nonspecific and may be related to prior trauma. No acute intracranial abnormality.

She had suffered a Traumatic Brain Injury and her neurologist stated that the head trauma, which was causing her conditions, must have occurred *less than a year ago*.

26. The only time Ms. Guzmán-Hernández had suffered an accident or trauma leading her hitting her head, shoulder and/or arm was at the Ashford Presbyterian Hospital on November 24, 2020.

27. Said accident at the Ashford Presbyterian Hospital was the event of “prior trauma” that caused her TBI and what caused, and continues to cause, Ms. Guzmán-Hernández’ life altering damages. Her brain’s frontal lobe his permanently damaged.

28. Ashford Presbyterian Hospital, Mr. Orsini and any other Codefendant should never have left Ms. Guzmán-Hernández unsupervised and unattended for half an hour inside CT scanner machine. Moreover, when such patients notoriously become anxious and claustrophobic in them. Her anxiety and effort to move her body somewhat out of the machine was completely foreseeable and the examination table lacked security sides to avoid falls. Falls under such conditions are imminent.

V. CAUSES OF ACTION

29. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 28, as if fully set forth herein.

30. This cause of action arises under Articles 1802 of the Puerto Rico Civil Code, 31 Laws of PR Ann. §§ 5141, and is asserted against all Codefendants.

31. Pursuant to Article 1802 of the Puerto Rico Civil Code, id., a person that causes damages to another because of fault or negligence is required to repair or indemnify the damages caused. Here, the named Codefendant and remaining Codefendants willfully and negligently took steps and/or incurred in omissions which caused Ms. Guzmán-Hernández to fall from the CT scanner machine’s examination table.

32. The named Codefendant and remaining Codefendants all acted with fault and/or negligence, and those actions were and are the proximate cause of Plaintiff’s brain injury and damages, which are estimated to be no less than \$3,000,000.00.

VI. PETITION

WHEREFORE, Plaintiff requests this Honorable Court to order that the named Codefendant and remaining Codefendants compensate her for her damages caused at their hand, including but not limited to pre- and post-judgment interest as allowed by law, reasonable attorneys' fees and costs incurred in bringing forth this causes of action, and any other relief as the Court deems just and proper.

VII. RESERVATION OF RIGHTS

Plaintiff reserves the right to further amend this Complaint, upon completion of further investigation, to assert any additional claims for relief against the Codefendants or other parties as may be warranted by law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21st day of November, 2020.

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